

Serial No.: 10/551,282
Atty. Docket No.: P70807US0

REMARKS

By this Amendment, Applicants have amended claim 9 and added claim 20. Claims 1-20 are pending in the application. Claims 1, 11 and 13 are independent. Claims 11 and 12 have been withdrawn.

In the Requirement for Restriction mailed May 16, 2008, the Examiner stated that the captioned application includes claims directed to the following patentably distinct species: Species I, Figure 1; Species II, Figure 2; and Species III, Figure 3. The Examiner further stated that no claims are currently generic.

Applicants hereby elect Invention I, with traverse, and respectfully ask the Examiner to reconsider her determination regarding multiple distinct species. Claims 1, 2, 4-10, 13, 14 and 16-19 read on the elected species.

The present invention is directed to an ostomy appliance having front and rear walls of flexible material forming a bag. The rear wall has an opening for receiving a stoma, and is provided with an adhesive wafer for securing the appliance to the user's skin; the wafer has a hole which is aligned with the opening in the rear wall for receiving the stoma.

The wafer has an attachment zone surrounding the wafer hole and on a surface facing away from the user. The edge of the rear wall opening is adapted to be secured to this attachment zone.

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A first part of the edge is permanently secured to the surface of the wafer in a corresponding first part of the attachment zone, and a second, remaining part of the edge is prepared for adhesive sealing to a remaining second part of the attachment zone.

The foregoing invention with the limitations just summarized is set forth in both claims 1 and 13. Hence, claims 1 and 13 are clearly generic to all of the species. The slight difference in wording in the last clause of claim 13, relative to the last two clauses in claim 1, does not describe a different structure than that set forth in claim 1. Rather, both claims in the noted portions thereof set forth the same structure by which one part of the edge surrounding the rear wall opening is permanently secured to the surface of the wafer, e.g., it is already secured when the appliance is purchased, and the remaining part of the edge is initially unsecured but, in use, is secured to the attachment zone surrounding the wafer hole by an adhesive seal once the device has been properly positioned relative to the stoma. To further clarify, in claim 13 the "first position" refers to a position in which the remaining part of the edge has not yet been secured to the wafer; this first position allows the user to see the stoma to properly position the device. The "second position"

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is that position which is assumed when the remaining part of the bag edge has been adhered to the wafer.

Accordingly, claims 1 and 13 are generic to species I.

With respect to the other two "species", Applicants suspect that the wording of the specification text on page 15 describing Figures 2 and 3 may have suggested different species when, in fact, what is described is better interpreted as further features that may be added to the invention of Figure 1, as set forth in claims 1 and 13. Particularly, the invention of claims 1 and 13 may *further include* a separate sealing member 13, as shown in Figure 2. There is no substitution of one element for another as to constitute separate species. Instead, Figure 2 depicts the addition of a further element to the elements of Figure 1 as set forth in the independent claims; this further element is properly set forth in dependent claims 3 and 15, which include all of the limitations of underlying claims 1 and 13, respectively.

Similarly, the invention of claims 1 and 13 may *further include* an opening in the front wall with an openable and closeable cover, as shown in Figure 3. With the exception of this added front wall opening and cover, the embodiment of Figure 3 is the same as that of Figure 1, as stated on page 15, lines 30-31. Again, the front wall opening and cover represent additional

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features that may be included within the invention of Figure 1 and are properly presented in new dependent claim 20 which includes all of the limitations of underlying claim 1.

In view of the foregoing, withdrawal of the election requirement and examination of claims 1-10 and 13-20 is requested.

With this response, it is respectfully submitted that the present application is in condition for examination on the merits. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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